

**MOTION FOR CONTINUANCE**

JD-CV-21 Rev. 5-15  
C.G.S. § 52-196  
P.B. §§ 14-23, 14-24

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STATE OF CONNECTICUT  
**SUPERIOR COURT**  
[www.jud.ct.gov](http://www.jud.ct.gov)

COURT USE ONLY

**MFCSE****Instructions To Person Making Motion**

Fill out all sections of this form except the Order section and file it with the Clerk of the Court at least three (3) days before the date of the scheduled event.

Docket number

**NNH-CV-16-6062169-S**

Name of case (Full name of Plaintiff v. Full name of Defendant)

**HELLIGER, PATRICIA V. CITY OF NEW HAVEN**

<input checked="" type="checkbox"/> Judicial District <input type="checkbox"/> Housing Session <input type="checkbox"/> Geographical Area Number	Address of Court (Number, street, town and zip code) <b>235 Church Street New Haven, CT 06510</b>
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Date of Motion <b>08/30/2018</b>	Sequence Number on Short Calendar (If applicable)	Name of Judge Who Scheduled the Event this Continuance is Requested for (If applicable) <b>Judge Ozalis</b>
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Date of Scheduled Event <b>09/06/2018</b>	Person Making Motion is: <input type="checkbox"/> Plaintiff's Attorney <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant's Attorney <input type="checkbox"/> Defendant <input type="checkbox"/> Other <b>with consent</b>
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Firm Name, if Applicable <b>MORRISON MAHONEY LLP</b>	Address <b>One Constitution Plaza 10th Fl Hartford, CT 06103</b>	Phone Number (with area code) <b>860-616-4441</b>
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**Event For Which Continuance Is Requested:** ("X" applicable box(es) and explain below)

<input type="checkbox"/> Arbitration	<input type="checkbox"/> Early Intervention Conference	<input type="checkbox"/> Pretrial
<input type="checkbox"/> Administrative Appeal Hearing	<input type="checkbox"/> Fact-Finding	<input type="checkbox"/> Status Conference
<input type="checkbox"/> Attorney Trial Referee Proceeding	<input type="checkbox"/> Foreclosure Mediation	<input type="checkbox"/> Trial Management Conference
<input checked="" type="checkbox"/> Court Trial	<input type="checkbox"/> Jury Trial	<input type="checkbox"/> Other _____
<input type="checkbox"/> Judicial-Alternative Dispute Resolution (J-ADR)	<input type="checkbox"/> Hearing In Damages	

**Reason(s) For Continuance Request:** ("X" reason(s) and provide an explanation)

<input type="checkbox"/> Counsel not ready _____	<input type="checkbox"/> Discovery not complete _____
<input type="checkbox"/> Lay witness not available (Name of witness) _____	
<input type="checkbox"/> Counsel not available _____	<input checked="" type="checkbox"/> Other <b>see attached Motion</b>
<input type="checkbox"/> Party not available (Name of party) _____	
<input type="checkbox"/> Expert witness not available (Name of witness) _____	

Continue explanation, if necessary:

For the above reason(s), I request this case be continued to (date): \_\_\_\_\_ or ☒ at the court's discretion.

I have contacted all counsel and self-represented parties of record about my intention to seek a continuance. All of the counsel and self-represented parties:

☒ Consent    ☐ Do Not Consent    ☐ Have not responded to the above motion for continuance and requested continuance date.

**Note: An agreement to continue a matter does not mean that the motion will automatically be granted by the court.**

I agree to be responsible for notifying my client, if applicable, and all counsel of record and self-represented parties whether the continuance is granted or denied, and if granted, the new date of the scheduled event.

**Certification**

I certify that a copy of this document was mailed or delivered electronically or non-electronically on (date) **08/30/2018** to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties receiving electronic delivery.

Name and address of each party and attorney that copy was mailed or delivered to\*

**William Palmieri-William S. Palmieri, LLC/129 Church St, Suite 405/New Haven, CT 06510**

Signed (Signature of filer) ▶ 422409	Print or type name of person signing <b>Cristin E. Sheehan</b>	Date signed <b>08/30/2018</b>
Mailing address (Number, street, town, state and zip code) <b>One Constitution Plaza, 10th Fl, Hartford, CT 06103</b>		Telephone number <b>860-616-4441</b>
<b>Order</b>	Motion For Continuance is: <input type="checkbox"/> Granted <input type="checkbox"/> Denied	Matter Continued To: Signed (Judge) Date

\*If necessary, attach additional sheet or sheets with name and address which the copy was mailed or delivered to.

DOCKET NO.: NNH-CV-16-6062169-S : SUPERIOR COURT  
PATRICIA HELLIGER : JUDICIAL DISTRICT OF NEW HAVEN  
v. : AT NEW HAVEN  
CITY OF NEW HAVEN, ET AL. : AUGUST 30, 2018

**EMERGENCY MOTION FOR CONTINUANCE**

Defendants City of New Haven and Dean Esserman, request a continuance of the September 6, 2018 trial for two reasons. First, in order to avoid burdening this Court with further discovery issues and trial, which Plaintiff has indicated would span three weeks, the parties have agreed to mediate this matter with the Honorable Terence Zemetis.<sup>1</sup> Second, there is good cause to grant the continuance separate and apart from a willingness to mediate. This is because Plaintiff revealed for the first time on Monday, August 27, 2018 that she is making a claim for emotional distress and further identified significant inaccuracies in her discovery responses that have misled Defendants requiring a continuance to avoid undue prejudice to the defense at trial.

**Mediation would be a More Efficient Use of Court Resources than a Three Week Trial**

For the first time on Monday, August 27, 2018 Plaintiff presented a demand. In light of the other developments on Monday as described below, and to avoid the burden and expense of additional discovery, further motion practice related to same, as well as trial, Defendants have agreed to mediation. Both parties agree that the better use of judicial resources at this point would

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<sup>1</sup> The undersigned contacted his clerk but was unable to ascertain Judge Zemetis's availability as of the filing of this Motion.

be through a mediated resolution rather than a litigated one (especially in light of Plaintiff's projected trial schedule that includes 20 witnesses). Accordingly, the parties jointly seek a continuance to enable this matter to go to mediation.

**There is Good Cause for a Continuance**

Defendants submit that there is good cause for a continuance because, absent a continuance to investigate the claims and information provided by Plaintiff for the first time on Monday, Defendants would be prejudiced at trial. As background, Defendants served Plaintiff with Interrogatories and Requests for Production on December 23, 2016. On March 13, 2017, Defendants moved to compel responses. The Motion was granted, spurring Plaintiff's response dated May 26, 2017. Plaintiff responded to various Interrogatories with the response "to be provided" and Requests for Production with "not applicable." In particular:

State the names, addresses, and telephone numbers of all non-experts you may call as witnesses in any preliminary hearing and/or at trial, describe the subject matter upon which each witness will testify, and provide the substance of the facts and opinions to which each witness will testify.

RESPONSE: "To be provided."

Interrogatory 9 stated:

Please provide an itemized list setting forth the damages, if any, you are seeking in relation to the allegations made in your Complaint:

RESPONSE: To be provided.

Defendant requested that Plaintiff produce the following materials and documents:

Request for Production No. 1: Copies of all non-privileged documents containing facts and/or information supporting your responses to the preceding Interrogatories...

Plaintiff's response: Not applicable.

Request for Production No. 9: Any and all other non-privileged documents that support, relate or refer to any of the allegations in your Complaint.

Plaintiff's Response: Not applicable..

Plaintiff's deposition began on February 5, 2016, however, despite many efforts by the undersigned to avoid this exact situation, Plaintiff was not made available to conclude her deposition until Monday, August 27<sup>th</sup>. For the first time during her deposition on August 27<sup>th</sup>, Plaintiff indicated that (1) she is now claiming emotional distress and asserted treatment and symptoms associated with same (despite the fact this was never raised in any of her three Amended Complaints and that she never responded to Interrogatory 9 seeking a damages analysis) and (2) her responses to Defendants' requests for production seeking documents supporting her interrogatory responses and complaint as "inapplicable" was not accurate as she does in fact have materials that have not been produced.

Plaintiff's failure to (1) produce the documents and information supporting her interrogatory responses and complaint and instead stating that such requests were "not applicable" and (2) assert her claim of emotional distress in any of her three Amended Complaints mislead the Defendants in their preparation of this matter. Plaintiff ambushed Defendants with this information on August 27<sup>th</sup> and going forward with trial on September 6<sup>th</sup> without giving an opportunity for

Defendants to review and perform any further investigation into such new claims/evidence (including production of medical records and any additional steps required to be taken as a result) would be unduly prejudicial.

Accordingly, Defendants submit that there is good cause for a continuance. Plaintiff has agreed that a continuance of the trial date due to these recent revelations is necessary so as to enable the Defendants to discover the facts and information that they have sought over the last 15 months and avoid the prejudice to the defense should trial proceed as currently scheduled.

#### **Proposed Continuance Date**

The parties were unable to schedule the mediation with Judge Zemetis in advance of requesting a continuance.<sup>2</sup> The parties are inclined to suggest a continuance of the trial date for 60 days from the date of any failed mediation, which can be calculated once such mediation has been scheduled or 60 days from September 6, 2018 whichever the Court believes makes the most sense.

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<sup>2</sup> Upon information and belief, given the currently scheduled trial date, it is unlikely that they will be permitted to schedule the mediation until a continuance has been granted.

DEFENDANTS, CITY OF NEW HAVEN  
and DEAN ESSERMAN

By: /s/ Cristin E. Sheehan

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- Their Attorneys -  
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Phone: 860-616-4441  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above was mailed or electronically delivered on this same date to the following counsel and self-represented parties of record and that written consent for electronic delivery was received from all counsel and self-represented parties of record who were electronically served:

WILLIAM S. PALMIERI, LLC  
110 WHITNEY AVENUE  
NEW HAVEN, CT 06510

By: /s/ Cristin E. Sheehan  
Cristin E. Sheehan